

THE HON'BLE SRI JUSTICE V.V.S.RAO

-
WRIT PETITION No.1961 of 2007

-
Dated : 29.03.2007

-
Between:

-
Garapati Suresh S/o Veera Venkata Rao

...PETITIONER

And:

-
The Mandal Revenue Officer,
Atreyapuram Mandal, East Godavari District
and another.

... RESPONDENTS

-
THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1961 of 2007

ORDER:

Petitioner is a resident of Rajavaram village of Atreyapuram Mandal in East Godavari District. He filed the instant writ petition seeking a writ of mandamus declaring the action of the respondents, namely, Mandal Revenue Officer, Atreyapuram (MRO), and the District Collector, Kakinada, in dispossessing him from the land admeasuring Acs.0.30 in Sy.No.20/2 of Rajavaram village, as illegal and arbitrary, and consequently a restraint order against the respondents is also sought.

It is the case of the petitioner that he is a physically handicapped person and the subject land was assigned to him by proceedings of the first respondent dated 15.02.1996, by way of a D-Form patta. He also statedly obtained pattadar pass book (PPB). Since then he is in possession of the land, as alleged. On 31.01.2007 as the first respondent tried to dispossess the petitioner, at the behest of the second respondent, with a view to assign the land as house sites under Indiramma Adarsa Housing Scheme, he filed the writ petition.

On 26.02.2007 when the matter was listed for preliminary hearing, learned Assistant Government Pleader for Revenue (Assignment), after getting instructions, submitted that action was

initiated against the petitioner under the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act'), and after issuing notice, dated 23.11.2006, under Section 7 of the Act, an order under Section 6 of the Act was passed on 11.12.2006 and possession of the land was taken. This was disputed, and therefore, this Court directed the learned Assistant Government Pleader to file a counter affidavit.

The counter affidavit is filed by the MRO. It is stated that by proceedings dated 15.02.1996, D-Form patta was granted for an extent of Acs.0.30 in Sy.No.20/2 when the petitioner was aged 17 years, however, in 2002, action was initiated for evicting the petitioner and other encroachers, who are in occupation of lands in Sy.Nos.18,19,20, and 21, with a view to provide house sites to the poor. The father of the petitioner and four others approached this Court and filed W.P.No.13768 of 2003. The same was dismissed on 22.09.2003 directing the revenue authorities not to assign the cart track poramboke to any person, in view of the prohibition under BSO 15(4)(ii) of Andhra Pradesh Revenue Board Standing Orders. In 2006, fifty nine beneficiaries were selected for providing house sites under Indiramma Adarsa Housing Scheme, and the land admeasuring Acs.2.16 in Sy.Nos.19/1C, 20 and 21 which was under the occupation of the father of the petitioner and four others was identified, as there is no other suitable land in the village.

A notice was issued under Section 7 of the Act and an eviction order was passed under Section 6 of the Act on 11.12.2006. On 22.12.2006, the Mandal Revenue Inspector, Atreyapuram, took possession of the land and the same was published in the village by beat of tom-tom. The land was handed over to the Panchayat Secretary, Rajavaram, for safe custody. The lay out in respect of the land in Sy.Nos.19 and 20 also got prepared with 70 plots. At that stage, the petitioner sent a representation to the first respondent alleging that he was granted D-Form patta. On verification, it was found that no patta was granted to anybody in respect of the land admeasuring Acs.0.34 in Sy.No.20/2 classified as village site, in which trees are existing. A notice was issued to the petitioner to appear before the first respondent on 06.01.2007 along with the documentary evidence for enquiry. The petitioner appeared on 06.01.2007 and produced Xerox copies of D-Form patta and title deed, but originals were not filed. He also gave a statement before the first respondent to the effect that his father possessed an extent of Acs.3.00 of land, and that he is in possession of the land admeasuring Acs.0.58 in Sy.No.12/1A in Rajavaram village as well as Acs.0.30 in Sy.No.20/2. It is also alleged that the petitioner further deposed that he is doing fertilizer business, but he refused to sign the deposition. The other allegations made in the writ affidavit are denied.

Petitioner has not filed any reply affidavit denying the counter

averments. When the assignment of the land in favour of the petitioner, as alleged, is disputed by the respondents, there cannot be any objection for taking action under the Act. It is, however, contended that the assignment in favour of the petitioner, who is a physically handicapped person, and grant of PPB to him have not been denied so far by the respondents, and therefore, without cancelling the D-Form patta, the petitioner cannot be evicted. The petitioner approached this Court alleging that the respondents failed to take necessary action as per law. In the counter affidavit it is alleged that action was initiated under the Act and an order was passed under Section 6 of the Act on 11.12.2006. In such a case, the only remedy of the petitioner is to file an appeal by raising all the grounds which are urged herein. The petitioner may approach the MRO with a copy of this order and obtain a copy of the proceedings dated 11.12.2006 under Section 6 of the Act. Therefore, liberty is given to him to file an appeal before the jurisdictional revenue appellate officer under Section 10 of the Act. In this writ petition no relief can be granted.

The writ petition, with the above observation, is accordingly dismissed. No costs.

(V.V.S.RAO,J)

29th March, 2007.
sh